

## Message Text

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22 S 41

ORIGIN AID-31

INFO OCT-01 NEA-10 L-03 EB-07 SP-02 SS-15 SAM-01 H-02

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DRAFTED BY GC/NE:MKITAY/NE/CD:SATAUBENBLATT:CK

APPROVED BY AA/NE:RHNOOTER

NE/ME:NSWEET(DRAFT)

AA/SER:CMANN(DRAFT)

SER/COM:RLOOPER(DRAFT)

L/NEA:JROHWER(DRAFT)

NEA/RA:DMORRISON

NEA/RA:MDRAPER

NEA:SSOBER

----- 017930

P R 240124Z JAN 76

FM SECSTATE WASHDC

TO AMEMBASSY DAMASCUS

INFO AMEMBASSY CAIRO

AMEMBASSY AMMAN

C O N F I D E N T I A L STATE 018022

E.O. 11652: GDS

TAGS: EAID, SY

SUBJECT: ARAB BOYCOTT: IMPLEMENTATION OF AID PROGRAMS

REF: DAMASCUS 5088

1. LEGAL (BOTH STATE AND FEDERAL), CONGRESSIONAL, AND PRACTICAL CONSIDERATIONS WHICH ARISE IF BOYCOTT RESTRICTIONS ARE IMPOSED IN THE COURSE OF IMPLEMENTATION OF AID-FINANCED PROJECTS OR PROGRAMS ARGUE FOR EMBASSY MAKING EVERY EFFORT TO OBTAIN SYRIAN GOVERNMENT AGREEMENT THAT BOYCOTT CONDITIONS/LANGUAGE WILL NOT BE INTRODUCED AT ANY STAGE OF AID-SUPPORTED TRANSACTIONS.

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2. WE VALUE AID PROGRAMS AS IMPORTANT ELEMENT IN DEVELOPING IMPROVED BILATERAL RELATIONS BETWEEN THE UNITED STATES AND SYRIA AND BELIEVE THAT SYRIA LIKewise HAS IMPORTANT INTEREST IN AID PROJECTS AND PROGRAMS AND

RESULTING IMPROVEMENT IN OUR RELATIONS. SARG IS WELL AWARE OF USG OPPOSITION TO BOYCOTTHOF ISRAEL AND TO APPLICATION OF SECONDARY BOYCOTT TO U.S. FIRMS. WE ARE EQUALLY AWARE OF SARG INTENT TO CONTINUE TO ADHERE TO PRINCIPLE OF BOYCOTT PENDING SETTLEMENT OF ARAB-ISRAEL DISPUTE. OBJECTIVE THEREFORE IS TO FIND MEANS BY WHICH

U.S.-SYRIAN RELATIONS CAN DEVELOP ON TERMS OF MUTUAL BENEFIT WITHOUT RECURRING DISPUTE OVER BOYCOTT ISSUE.

3. USG POLICY IS TO OPPOSE BOYCOTTS OR DISCRIMINATORY PRACTICES AIMED AGAINST U.S. FIRMS AND CITIZENS AND COUNTRIES FRIENDLY TO THE UNITED STATES. REFERENCE IS MADE TO THE EXPORT ADMINISTRATION ACT OF 1969 AND REGULATIONS ISSUED THEREUNDER AND THE PRESIDENT'S DIRECTIVE OF NOVEMBER 20, 1975 (COPIES BEING POUCHED). THESE REFERENCED LAWS AND DIRECTIVES FORM THE BASIS OF THE POLICY DECISION AND GUIDANCE WITH RESPECT TO AID PROGRAMS CONTAINED IN THIS MESSAGE.

4. THE FOLLOWING GUIDANCE RELATES TO (A) INVITATIONS FOR BID (IFB) AND CONTRACT AND RELATED DOCUMENTS APPROVED BY AID AND (B) COMMERCIAL DOCUMENTS ISSUED BY BANKS AND OTHER COMMERCIAL ENTITIES SUCH AS LETTERS OF CREDIT, BILLS OF LADING RELATING TO AID-FINANCED COMMODITIES AND SERVICES.

(A) INVITATIONS FOR BID AND CONTRACTS -- AID CANNOT ACCEPT SPECIFIC BOYCOTTHLANGUAGE IN IFB'S OR CONTRACT DOCUMENTS WHICH APPLY BOYCOTT TO U.S. FIRMS OR INDIVIDUALS OR TOHA THIRD COUNTRY FRIENDLY TO THE U.S. SUCH RESTRICTIONS BOTH VIOLATE PROVISIONS OF THE FOREIGN ASSISTANCE ACT ON COMPETITIVE PROCUREMENT AND U.S. LAWS AND POLICY DIRECTIVES (PARA. 3 ABOVE) WHICH OPPOSE BOYCOTTS.

HOWEVER, AID IS PREPARED TO ACCEPT APPROACH SIMILAR TO CONFIDENTIAL

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ONE USED IN IBRD FINANCING (PARA. 8 REFTTEL) WHEREBY IFB/CONTRACT COULD CONTAIN CLAUSE STATING THAT SYRIAN LAWS IN FORCE SHALL APPLY. SUCH A CLAUSE, WHEREBY CONTRACTORS AGREE TO OBEY LOCAL LAWS, IS COMMON PRACTICE IN MANY COUNTRIES WHERE BOYCOTT NOT AN ISSUE. AID COULD ALSO ACCEPT IFB/CONTRACT WHEREBY BOYCOTT CLAUSE CONTAINED IN ONE PARAGRAPH IS DELETED OR MADE INAPPLICABLE BY ANOTHER PARAGRAPH IN SAME DOCUMENT. BUT ALL DOCUMENTS WHICH CONTAIN BOYCOTT LANGUAGE, BOTH PRELIMINARY AND FINAL DOCUMENTS, MUST CONTAIN REFERENCE TO BOYCOTT INAPPLICABILITY AS DESCRIBED ABOVE.

IN THE CASE OF SHIPPING AND CERTIFICATION ON SOURCE AND

ORIGIN CLAUSES SARG WISHES INCLUDE IN IFB/CONTRACT, AID CAN ACCEPT LANGUAGE WHICH DISCUSSED PARA. (B)(1) AND (2) BELOW UNDER LETTERS OF CREDIT.

YOU SHOULD EMPHASIZE TO SARG THAT EVEN WITH ACCEPTABLE LANGUAGE IN CONTRACT, AID CANNOT FINANCE TRANSACTIONS WHERE BOYCOTT CONSIDERATIONS ARE IN FACT TAKEN INTO ACCOUNT IN PREQUALIFICATION AND SELECTION OF U.S. CONTRACTORS FOR SUPPLY OF COMMODITIES AND SERVICES. AID WILL CONTINUE TO REVIEW IFB AND CONTRACTS AT VARIOUS STAGES IN THE IMPLEMENTATION PROCESS TO INSURE THAT BOYCOTT RELATED DISCRIMINATION DOES NOT OCCUR.

(B) LETTERS OF CREDIT AND BILLS OF LADING -- BOYCOTT LANGUAGE SHOULD NOT BE INCLUDED IN LETTERS OF CREDIT OR OTHER COMMERCIAL DOCUMENTATION USED IN IMPLEMENTING AID-FUNDED PROGRAMS. CERTAIN LANGUAGE NOTED BELOW IS NOT CONSIDERED TO BE BOYCOTT LANGUAGE.

(1) SHIPPING PROVISIONS -- SYRIAN BANK LETTERS OF CREDIT (OR IFB'S AND CONTRACTS) WHICH CONTAIN CLAUSES FORBIDDING SHIPPING ON ISRAELI-OWNED VESSELS AND VESSELS SCHEDULED TO CALL AT ANY ISRAELI PORT BEFORE DISCHARGING GOODS AT A SYRIAN DESTINATION ARE ACCEPTABLE TO AID. THIS TYPE OF PRECAUTIONARY MEASURE TO PREVENT CONFISCATION (BY COUNTRY FRIENDLY TO THE U.S. BUT NOT FRIENDLY TO THE IMPORTER) IS EXPRESSLY EXEMPTED FROM THE DEFINITION OF BOYCOTTS OR RESTRICTIVE TRADE PRACTICES  
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BY THE DEPARTMENT OF COMMERCE REGULATIONS ISSUED UNDER THE EXPORT ADMINISTRATION ACT OF 1969#(SECTION 3(5)). HOWEVER, LANGUAGE DIRECTED AGAINST "BLACKLISTED" SHIPPING FACILITIES IS BOYCOTT LANGUAGE OF TYPE NOT TO BE INCLUDED IN ANY STAGE OF AID-FUNDED PROGRAM. (TO OUR KNOWLEDGE, WE NOT AWARE OF SYRIAN USE OF SUCH LANGUAGE.)

(2) CERTIFICATES OF ORIGIN -- LETTERS OF CREDIT (OR IFB'S AND CONTRACTS) REQUIRING CERTIFICATES OF ORIGIN CERTIFIED BY THE CHAMBER OF COMMERCE REPRESENTATIVE OR SYRIAN CONSULATE THAT GOODS ARE OF ORIGIN OF THE EXPORTING COUNTRY ARE ACCEPTABLE TO AID. SINCE ONLY GOODS OF U.S. SOURCE AND ORIGIN ARE CURRENTLY ELIGIBLE UNDER AID FINANCING, SARG COULD REQUIRE CERTIFICATION FROM SUPPLIER TO EFFECT THAT GOODS BEING PROVIDED ARE OF U.S. SOURCE AND ORIGIN. FYI: UNDER AID PROCUREMENT PROCEDURES, EQUIPMENT THAT INCLUDES 50 PERCENT BY VALUE OF COMPONENTS FROM OTHER FREE WORLD COUNTRIES WOULD BE ELIGIBLE FOR AID FINANCING. ALTHOUGH THEORETICALLY ISRAELI COMPONENTS COULD FIND THEIR WAY INTO "U.S. SOURCE AND ORIGIN" EQUIPMENT, FOR PRACTICAL PURPOSES THIS IS NOT

LIKELY. EVEN WHEN NON-U.S. COMPONENTS (50 PERCENT AND UNDER) ENTER U.S. EQUIPMENT, IT IS STILL CONSIDERED

"U.S. SOURCE AND ORIGIN". END FYI.

(C) BILLS OF LADING -- THESE DOCUMENTS NORMALLY REFER TO GOODS SHIPPED, SHIPPING FACILITY AND DESTINATION. AID WOULD BE PREPARED TO ACCEPT UNDER BILLS OF LADING LANGUAGE SIMILAR TO THAT DISCUSSED ABOVE WHICH AID CONSIDERS ACCEPTABLE FOR LETTERS OF CREDIT.

5. AID HAS HAD OPPORTUNITY TO REVIEW WITH A NUMBER OF NEW YORK COMMERCIAL BANKS AND DEPARTMENT OF COMMERCE (WHICH RECIPIENT OF REPORTS FROM U.S. FIRMS AND BANKS REPORTING ON BOYCOTT) TYPE OF CLAUSES APPEARING IN SYRIAN LETTERS OF CREDIT. ALTHOUGH SUCH CLAUSES BY NO MEANS UNIFORM, OF SOME THIRTY-ONE (31) LETTERS OF CREDIT (NON-AID) ISSUED BY BRANCHES OF THE COMMERCIAL BANK OF SYRIA S.A. REVIEWED BY AID, ALL BUT ELEVEN (11) USED  
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LANGUAGE WHICH WOULD BE ACCEPTABLE TOHAID. ONE LETTER OF CREDIT DATED DECEMBER 10, 1975 INCLUDED FOLLOWING CLAUSES:

"1. CERTIFICATE OF ORIGIN IN 2 COPIES ISSUED AND CERTIFIED BY THE CHAMBER OF COMMERCE (SEPARATE OR INCORPORATED ON INVOICE). THE SAID CERTIFICATE SHOULD ATTEST THAT THE GOODS ARE OF THE ORIGIN OF THE EXPORTING COUNTRY; IF NOT, THE COUNTRY OF ORIGIN SHOULD BE SPECIFIED.

"2. STATEMENT FROM THE SHIPPING COMPANY ATTESTING THAT THE STEAMER CARRYING THE GOODS IS NOT ISRAELI-OWNED AND IS NOT SCHEDULED TO CALL AT ANY ISRAELI PORT BEFORE DISCHARGING GOODS AT DESTINATION."

ANOTHER LETTER OF CREDIT INCLUDES CLAUSES 1 AND 2, ABOVE, AND IN ADDITION STATED IN THIRD CLAUSE THAT"TRANSSHIPMENT PERMITTED EXCEPT AT ISRAELI PORT".

IN LIEU OF CLAUSE 1, ABOVE, STILL OTHER SYRIAN COMMERCIAL BANK S.A. LETTERS OF CREDIT INCLUDED A CLAUSE REQUIRING "A CERTIFICATE OF ORIGIN INCORPORATED IN THE INVOICE ATTESTING TO THE ORIGIN OF THE GOODS AND THE PRODUCER'S NAME" OR "CERTIFICATE OF ORIGIN IN DUPLICATE, ONE COPY OF WHICH IS LEGALIZED BY SYRIAN ARAB REPUBLIC CONSULATE SHOWING ORIGIN OF GOODS AND MANUFACTURER'S NAME".

CLAUSE 2, ABOVE, ON SHIPPING APPEARED TO BE COMMON TO ALL LETTERS OF CREDIT REVIEWED.

IN YOUR DISCUSSION WITH SARG OFFICIALS, YOU CAN INDICATE THAT AID WOULD HAVE NO PROBLEM WITH ABOVE CLAUSES IF CONTAINED IN AID-FINANCED LETTERS OF CREDIT.

6. FYI: IN A SAMPLE OF THE REMAINING BOYCOTT CLAUSES (11 OUT OF 31)#REPORTED TO THE DEPARTMENT OF COMMERCE BY A FEW U.S. COMMERCIAL BANKS, IT REPORTED THAT CERTAIN LETTERS OF CREDIT CONTAINED EITHER OF THE FOLLOWING CLAUSES: "WE DECLARE THAT WE HAVE BEEN INFORMED ABOUT SYRIAN REGULATIONS CONCERNING RELATIONS WITH ISRAEL AND CONFIDENTIAL

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ENGAGE OURSELVES TO COMPLY WITH" AND/OR "WE CERTIFY THAT THE SAID MERCHANDISE HAS NOT DIRECT OR INDIRECT RELATION WITH THE AGREEMENT OF REPARATIONS CONCLUDED BETWEEN GERMANY AND ISRAEL". SUCH LANGUAGE SHOULD NOT BE INCLUDED IN AID-FINANCED LETTERS OF CREDIT OR OTHER STAGE IN DOCUMENTATION RELATED TO AID PROGRAMS. WITH RESPECT TO THE REPARATIONS PROVISION, U.S. SOURCE AND ORIGIN REQUIREMENT WOULD PRECLUDE NEED FOR REPARATIONS PROVISION. END FYI.

7. UNDER RECENT STATE LEGISLATION AND REGULATIONS IN NEW YORK AND ILLINOIS, BOYCOTT LANGUAGE IN FINANCIAL DOCUMENTS MAY BE UNACCEPTABLE TO COMMERCIAL BANKS OR SUPPLIERS IN THOSE STATES. ALTHOUGH THE IMPLICATIONS OF THESE STATE LAWS NOT TOTALLY CLEAR, SOME NEW YORK BANKS INDICATE THAT THEY ARE NOT CONFIRMING OR ADVISING LETTERS OF CREDIT FROM CORRESPONDENT ARAB BANKS WHICH CONTAIN BOYCOTT LANGUAGE UNTIL SOME CLARIFICATION ON NEW YORK LAW HAS BEEN OBTAINED. QUESTIONS HAVE ALSO BEEN RAISED BY U.S. COMMERCIAL BANKS ON THE MEANING OF THE DECEMBER 12 FEDERAL RESERVE BOARD LETTER TO ITS MEMBER BANKS DEALING WITH BOYCOTT ISSUE; WE BELIEVE SOME OF THESE QUESTIONS WILL HAVE BEEN DEALT WITH POSITIVELY BY FRB JANUARY 20 LETTER, BUT EFFECT OF LATTER LETTER IS STILL TO BE DETERMINED. ALSO THERE IS RECENT INDICATION THAT SOME U.S. FIRMS RELUCTANT TO ACCEPT CONTRACTS OR LETTERS OF CREDIT WITH BOYCOTT LANGUAGE. FURTHERMORE, RECENT SUIT FILED IN SAN FRANCISCO BY JUSTICE DEPARTMENT AGAINST BECHTEL MAY RAISE FURTHER QUESTIONS BY U.S. FIRMS RE ACCEPTING BOYCOTT LANGUAGE.

8. AID HAS REQUESTED FROM U.S. BANKS COPIES OF LETTERS OF CREDIT USED IN AID-FINANCED TRANSACTIONS. IF BOYCOTT LANGUAGE IS FOUND TO EXIST, AID WILL CONSIDER FURTHER STEPS TO ENSURE THAT AID-FINANCED LETTERS OF CREDIT ARE FREE OF BOYCOTT LANGUAGE.

9. THE ABOVE POLICY GUIDANCE, CONSIDERATIONS AND ACCEPTABLE CLAUSES SHOULD ASSIST EMBASSY IN DISCUSSIONS WITH SARG ON BOYCOTT PROBLEM. WE ATTACH HIGH PRIORITY

TO EMBASSY REPRESENTATIONS TO SENIOR SARG OFFICIALS WITH  
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VIEW OF REACHING EARLY SOLUTION THIS PROBLEM CONSISTENT  
WITH USG LAWS, POLICIES AND REGULATIONS DISCUSSED ABOVE.  
BELIEVE FACT THAT SUBSTANTIAL NUMBER OF SYRIAN LETTERS OF  
CREDIT ARE NOW WRITTEN IN A MANNER ACCEPTABLE TO AID  
SHOULD PROVIDE BASIS FOR IMADI TO WORK OUT ACCEPTABLE  
SYRIAN POSITION. SISCO

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## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 15 SEP 1999  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** INSTRUCTIONS, FOREIGN ASSISTANCE PROGRAMS, BOYCOTTS, PROPOSALS (BID), CONTRACTS  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 24 JAN 1976  
**Decaption Date:** 01 JAN 1960  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Authority:** KelleyW0  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 28 MAY 2004  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
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**Document Unique ID:** 00  
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**Enclosure:** n/a  
**Executive Order:** 11652 GDS  
**Errors:** n/a  
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**Original Handling Restrictions:** n/a  
**Original Previous Classification:** n/a  
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**Previous Handling Restrictions:** n/a  
**Reference:** n/a  
**Review Action:** RELEASED, APPROVED  
**Review Authority:** KelleyW0  
**Review Comment:** n/a  
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**TAGS:** EAID, SY, XF, US  
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**Type:** TE  
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